

## 21 C.J.S. Courts § 315

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### Courts

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### IX. Court Commissioners

#### B. Powers and Immunity

### § 315. Powers of court commissioners, generally

[Topic Summary](#) | [References](#) | [Correlation Table](#)

#### West's Key Number Digest

West's Key Number Digest, [Court Commissioners](#)  3, 4

**State constitutional or statutory provisions frequently enumerate the powers which may be exercised by a court commissioner.**

State constitutional<sup>1</sup> or statutory<sup>2</sup> provisions frequently enumerate the powers which may be exercised by a court commissioner. Examples of particular powers granted to court commissioners by statute include the power to decide bail<sup>3</sup> or personal recognizance conditions of release,<sup>4</sup> conduct preliminary hearings<sup>5</sup> and arraignments,<sup>6</sup> approve bonds and undertakings,<sup>7</sup> compel the attendance of a witness,<sup>8</sup> and punish contempt.<sup>9</sup>

There is authority holding that a court commissioner ordinarily has only such powers as are conferred on the commissioner by constitution or statute<sup>10</sup> and applicable rules of court.<sup>11</sup> It has also been held, however, that where the powers and duties of a court commissioner are enumerated by statute, court commissioners do not have only those powers specifically enumerated.<sup>12</sup> While

the power to perform a particular act cannot be predicated upon a mere inference or implication, the statute enumerating a court commissioner's powers will not be construed to prohibit additional acts merely because they are not particularized.<sup>13</sup>

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## Footnotes

- 1 Wash.—*State v. Goss*, 78 Wash. App. 58, 895 P.2d 861 (Div. 2 1995).
- 2 Cal.—*Settlemire v. Superior Court*, 105 Cal. App. 4th 666, 129 Cal. Rptr. 2d 560 (2d Dist. 2003).  
Ind.—*Moore v. Liggins*, 685 N.E.2d 57 (Ind. Ct. App. 1997).  
Wis.—*Matter of Carol J.R.*, 196 Wis. 2d 882, 540 N.W.2d 233 (Ct. App. 1995).
- 3 Ind.—*Barker v. State*, 622 N.E.2d 1329 (Ind. Ct. App. 1993).  
Wash.—*State v. Moore*, 73 Wash. App. 805, 871 P.2d 1086 (Div. 2 1994).
- 4 Wash.—*State v. Moore*, 73 Wash. App. 805, 871 P.2d 1086 (Div. 2 1994).
- 5 Wis.—*State v. Evans*, 187 Wis. 2d 66, 522 N.W.2d 554 (Ct. App. 1994).
- 6 Cal.—*Settlemire v. Superior Court*, 105 Cal. App. 4th 666, 129 Cal. Rptr. 2d 560 (2d Dist. 2003).  
Wis.—*State v. Evans*, 187 Wis. 2d 66, 522 N.W.2d 554 (Ct. App. 1994).
- 7 Cal.—*Settlemire v. Superior Court*, 105 Cal. App. 4th 666, 129 Cal. Rptr. 2d 560 (2d Dist. 2003).
- 8 Ind.—*Barker v. State*, 622 N.E.2d 1329 (Ind. Ct. App. 1993).
- 9 Ind.—*Barker v. State*, 622 N.E.2d 1329 (Ind. Ct. App. 1993).
- 10 Ariz.—*Green v. Thompson*, 17 Ariz. App. 587, 499 P.2d 715 (Div. 1 1972).  
Cal.—*People v. Oaxaca*, 39 Cal. App. 3d 153, 114 Cal. Rptr. 178 (2d Dist. 1974).
- 11 Ariz.—*Green v. Thompson*, 17 Ariz. App. 587, 499 P.2d 715 (Div. 1 1972).  
N.J.—*Mutual Discount Corp. v. Nagy*, 111 N.J.L. 592, 169 A. 185 (N.J. Sup. Ct. 1933).
- 12 Wis.—*State v. Evans*, 187 Wis. 2d 66, 522 N.W.2d 554 (Ct. App. 1994).
- 13 Wis.—*State v. Evans*, 187 Wis. 2d 66, 522 N.W.2d 554 (Ct. App. 1994).